



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2019-0635, FRL-10005-18-Region 10]

Air Plan Approval; Washington; Revised Public Notice Provisions and other Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the general air quality regulations submitted by the Washington Department of Ecology (Ecology). The four categories of revisions to the State Implementation Plan (SIP) approved in this action are: revising the adoption by reference date for Federal regulations cross referenced in the State regulations; revising the definition of volatile organic compounds (VOC) to match changes to the Federal definition; updating public involvement procedures for the new source review air permitting program to reflect changes to the Federal requirements, allowing greater use of electronic notice and electronic access to information; and correcting typographical errors and minor wording changes for clarity.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2019-0635. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-0256, or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we,” “us,” or “our” is used, it means the EPA.

I. Background

On December 4, 2019, we proposed to approve updates to Ecology’s general air quality regulations, submitted on November 5, 2019, as they applied to Ecology’s direct jurisdiction and the jurisdiction of the Benton Clean Air Agency (84 FR 66363). We note that not all the updated general air quality regulations contained in Chapter 173-400 Washington Administrative Code (WAC) were submitted for approval as part of the November 5, 2019 SIP revision. Specifically, subsections WAC 173-400-030(30) [subsequently renumbered to (32)], WAC 173-400-030(36) [subsequently renumbered to (38)], and WAC 173-400-040(2) were not submitted by Ecology as part of this action. For those subsections, the versions previously approved by the EPA remain in the SIP. The comment period for the proposal ended January 3, 2020, and we received no comments.

II. Final Action

We are approving and incorporating by reference in the Washington SIP at 40 CFR 52.2470(c) certain revisions to the following Chapter 173-400 WAC sections submitted on November 5, 2019:

- WAC 173-400-025, 173-400-030, 173-400-040, 173-400-050, 173-400-171, and 173-400-740, State effective September 16, 2018; and
- WAC 173-400-060 and 173-400-105, State effective November 25, 2018.

This approval is consistent with the exceptions requested by the State in the November 5, 2019 submittal as described in the proposal for this action and set forth in the amendments to 40 CFR part 52 below. We are also correcting a typographical error from a previous approval. In our November 17, 2015 final approval of changes to the Washington SIP, we approved WAC 173-400-081 (State effective April 1, 2011) to apply in Benton Clean Air Agency's jurisdiction. In a subsequent final action published October 6, 2016 (81 FR 69389), our prior approval of WAC 173-400-081 was inadvertently deleted from 40 CFR 52.2470(c), Table 4 – Additional Regulations Approved for Benton Clean Air Agency (BCAA) Jurisdiction. We are amending 40 CFR 52.2470 to correct this error.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully Federally-enforceable under sections 110 and 113

of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

¹ 62 FR 27968 (May 22, 1997).

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not address technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided State and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated March 21, 2018.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 28, 2020.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

2. Amend § 52.2470(c):

a. In Table 2 by:

- i. Revising the entries “173-400-025” and “173-400-030”;
- ii. Adding the entry “173-400-030(30) and (36)” in numerical order;
- iii. Revising the entry “173-400-040”;
- iv. Adding the entry “173-400-040(2)” in numerical order; and
- v. Revising the entries “173-400-050”, “173-400-060”, “173-400-105”, “173-400-171”, and “173-400-740”; and

b. In Table 4 under the heading “Washington Administrative Code, Chapter 173-400—General Regulations for Air Pollution Sources” by:

- i. Revising the entries “173-400-025” and “173-400-030”;
- ii. Adding the entry “173-400-030(30) and (36)”, in numerical order;
- iii. Revising the entry “173-400-040”;
- iv. Adding the entry “173-400-040(2)” in numerical order;
- v. Revising the entries “173-400-050” and “173-400-060”;
- vi. Adding the entry “173-400-081” in numerical order; and
- vii. Revising the entries “173-400-105” and “173-400-171”.

The revisions and additions read as follows:

§ 52.2470 Identification of plan.

* * * *

(c) * * *

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173-400-700, 173-405-012, 173-410-012, and 173-415-012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173-400—General Regulations for Air Pollution Sources				
*	*	*	*	*
173-400-025	Adoption of Federal Rules	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
173-400-030	Definitions	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except: 173-400-030(6); 173-400-030(32); 173-400-030(38); 173-400-030(45); 173-400-030(83); 173-400-030(89); 173-400-030(96); 173-400-030(97); 173-400-030(100); 173-400-030(103); 173-400-030(104).
173-400-030 (30) and (36)	Definitions	12/29/12	10/3/14, 79 FR 59653	

*	*	*	*	*	*	*
173-400-040	General Standards for Maximum Emissions	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except: 173-400-040(2); 173-400-040(3); 173-400-040(5).		
173-400-040(2)	General Standards for Maximum Emissions	07/01/16	10/6/16, 81 FR 69385	Except: 173-400-040(2)(c); 173-400-040(2)(d).		
173-400-050	Emission Standards for Combustion and Incineration Units	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except: 173-400-050(2); 173-400-050(4); 173-400-050(5); 173-400-050(6).		
173-400-060	Emission Standards for General Process Units	11/25/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]			
*	*	*	*	*	*	*
173-400-105	Records, Monitoring, and Reporting	11/25/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]			
*	*	*	*	*	*	*
173-400-171	Public Notice and Opportunity for Public Comment	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except: The part of 173-400-171(3)(b) that says, <ul style="list-style-type: none">“or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173-460 WAC”; 173-400-171(3)(o); 173-400-171(12).		
*	*	*	*	*	*	*

173-400-740	PSD Permitting Public Involvement Requirements	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal</u> <u>Register</u> citation]	
*	*	*	*	*

* * * * *

**TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY
(BCAA) JURISDICTION**

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173-400-700, 173-405-012, 173-410-012, and 173-415-012]

State / local citation	Title/subject	State / local effective date	EPA approval date	Explanations
*	*	*	*	*
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173-400—General Regulations for Air Pollution Sources				
173-400-025	Adoption of Federal Rules	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal</u> <u>Register</u> citation]	
173-400-030	Definitions	9/16/18	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal</u> <u>Register</u> citation]	Except: 173-400-030(6); 173-400-030(32); 173-400-030(38); 173-400-030(40); 173-400-030(41); 173-400-030(45); 173-400-030(83); 173-400-030(89); 173-400-030(96); 173-400-030(97); 173-400-030(100);

				173-400-030(103); 173-400-030(104).
173-400-030 (30) and (36)	Definitions	12/29/12	10/3/14, 79 FR 59653	
*	*	*	*	*
173-400-040	General Standards for Maximum Emissions	9/16/18	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Except: 173-400-040(2); 173-400-040(3); 173-400-040(4); 173-400-040(5); 173-400-040(9).
173-400- 040(2)	General Standards for Maximum Emissions	07/01/16	10/6/16, 81 FR 69385	Except: 173-400-040(2)(c); 173-400-040(2)(d).
173-400-050	Emission Standards for Combustion and Incineration Units	9/16/18	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Except: 173-400-050(2); 173-400-050(4); 173-400-050(5); 173-400-050(6).
173-400-060	Emission Standards for General Process Units	11/25/18	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
*	*	*	*	*
173-400-081	Startup and Shutdown	4/1/11	11/17/15, 80 FR 71695	
*	*	*	*	*
173-400-105	Records, Monitoring and Reporting	11/25/18	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
*	*	*	*	*
173-400-171	Public Notice and Opportunity for Public Comment	9/16/18	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Except: The part of 173-400-171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated

				under chapter 173-460 WAC”; 173-400-171(3)(o); 173-400-171(12).		
*	*	*	*	*	*	*

* * * * *

[FR Doc. 2020-02890 Filed: 2/21/2020 8:45 am; Publication Date: 2/24/2020]